

REMARKS

Claims 1-6 and 13-18 are pending in the application. Claims 13-18 are allowed. Claims 1-3 are rejected under 35 U.S.C. §103(a). Claims 4-6 are objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants have rewritten claims 4-6 in independent form including all of the limitations of the base claim and any intervening claims and therefore claims 4-6 are allowable. Applicants respectfully traverse these rejections for at least the reasons stated in the response having a mailing date of October 27, 2004 and file a Notice of Appeal concurrently herewith.

Applicants note that claims 4-6 were not amended to overcome prior art but to be written in independent form. Hence, the amendments made to claims 4-6 were not narrowing in scope and therefore no prosecution history estoppel arises from the amendments made to claims 4-6. *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.*, 62 U.S.P.Q.2d 1705, 1711-1712 (2002); 56 U.S.P.Q.2d 1865, 1870 (Fed. Cir. 2002). Further, the amendments made to claims 4-6 were not made for a substantial reason related to patentability and therefore no prosecution history estoppel arises from such amendments. *See Festo Corp.*, 62 U.S.P.Q.2d 1705 at 1707 (2002); *Warner-Jenkinson Co. v. Hilton Davis Chemical Co.*, 41 U.S.P.Q.2d 1865, 1873 (1997).

CONCLUSION

As a result of the foregoing, it is asserted by Applicants that claims 1-6 and 13-18 in the Application are in condition for allowance, and Applicants respectfully request an allowance of such claims. Applicants respectfully request that the Examiner call Applicants' attorney at the below listed number if the Examiner believes that such a discussion would be helpful in resolving any remaining issues.

Respectfully submitted,

WINSTEAD SECHREST & MINICK P.C.

Attorneys for Applicants

By: 

Kelly K. Kordzik
Reg. No. 36,571
Robert A. Voigt, Jr.
Reg. No. 47,159

P.O. Box 50784
Dallas, Texas 75201
(512) 370-2832

Austin_1 271964v.1